

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ARDEANA Q. ELLIS,

Plaintiff,

v.

SMITHKLINE BEECHAM CORP., dba
GLAXOSMITHKLINE,

Defendant.

Case No. C07-5302RJB

ORDER DENYING DEFENDANT'S
MOTION TO STRIKE AND NOTING
PLAINTIFF'S MOTION FOR
TEMPORARY RESTRAINING
ORDER

This matter comes before the Court on Defendant's Motion to Strike Plaintiff's Motion for Temporary Restraining Order, filed on September 13, 2007. Dkt. 29.

On September 13, 2007, Plaintiff filed a Motion for Temporary Restraining Order, seeking to prohibit Defendant from terminating her employment. Dkt. 28. Plaintiff did not include a noting date in the caption of her order as required by Western District of Washington Local Rule 7(b)(1). On September 16, 2007, Plaintiff filed an affidavit in support of her Motion for Temporary Restraining Order. Dkt. 32-2. On September 16, 2007, Plaintiff also filed a Praecipe, which requested that the Court allow Plaintiff to include a noting date in the caption of her motion. Dkt. 33.

ORDER DENYING DEFENDANT'S MOTION TO STRIKE AND NOTING PLAINTIFF'S
MOTION FOR TEMPORARY RESTRAINING ORDER - 1

1 Defendant cites four deficiencies regarding Plaintiff's filing of the Motion for Temporary
2 Restraining Order: (1) that the motion was not properly noted; (2) that Plaintiff failed to provide
3 proper notice to Defendant; (3) that Plaintiff failed to provide affidavits and other evidence in
4 support of the motion; and (4) that neither the complaint nor any record evidence supports Plaintiff's
5 request for a temporary restraining order. Dkt. 29, at 2-3.

6 First, Defendant correctly notes Plaintiff's noncompliance with Local Rule 7(b)(1). Plaintiff
7 did not properly include a noting date on her Motion for Temporary Restraining Order, and she did
8 not include a noting date on her Praecipe. *See* Local Rule 7(b)(1); 7(d)(2). Plaintiff states that while
9 she did not include a noting date in the caption of her motion, she included a noting date in the "TRO
10 document." Dkt. 33. The only date included in Plaintiff's Motion for Temporary Restraining Order
11 is the date of filing, and Plaintiff has not included a proper noting date. Dkt. 28. For purposes of
12 this motion, the Court should note Plaintiff's Motion for Temporary Restraining Order for
13 consideration on September 28, 2007. Plaintiff should include noting dates on future motions filed
14 with the Court in compliance with local rules.

15 Second, Plaintiff has provided notice of her Motion for Temporary Restraining Order. Dkt.
16 28, at 3. In addition, notice was electronically mailed to Defendant on September 13, 2007.

17 Third, Plaintiff has now provided an affidavit in support of her Motion for Temporary
18 Restraining Order. Dkt. 32-2.

19 Finally, Defendant has not provided any authority supporting Defendant's allegation that
20 Plaintiff is required to include in her complaint a claim of threatened or wrongful termination in order
21 to file a motion for a temporary restraining order. Plaintiff's complaint includes causes of action
22 regarding her employment, and she may support her motion for a temporary restraining order by
23 affidavit. *See* Fed. R. Civ. P. 65(b)(1) (although addressing requirements for temporary restraining
24 orders that do not require notice, the rule provides that a party seeking such an order may support
25

1 the motion by affidavit).

2 The Court should note Plaintiff's Motion for Temporary Restraining Order for September 28,
3 2007, and afford Defendant the opportunity to respond to the merits of the motion.

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5 Therefore, it is hereby ORDERED that Defendant's Motion to Strike Plaintiff's Motion for
6 Temporary Restraining Order (Dkt. 29) is DENIED. It is further ORDERED that Plaintiff's Motion
7 for Temporary Restraining Order (Dkt. 28) is hereby noted for September 28, 2007.

8 DATED this 19th day of September, 2007.

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11 ROBERT J. BRYAN
12 United States District Judge
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